

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TERENCE DICKINSON,

Plaintiff,

vs.

OCWEN LOAN SERVICING, LLC et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

2:08-cv-00023-RCJ-GWF

ORDER

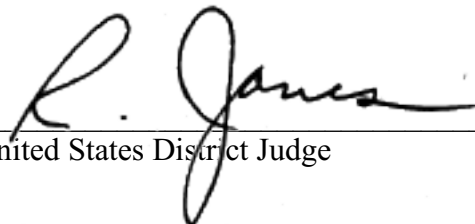
Before the Court on remand from the United States Court of Appeals for the Ninth Circuit is Defendants' Motion to Reconsider (#25). Plaintiff sued Defendants in state court for violations of the Truth in Lending Act ("TILA"). Defendants removed the case to this Court and moved to dismiss. On May 1, 2008, the Court granted the Motion to Dismiss (#7), dismissing Defendants Ocwen Loan Servicing, LLC ("Ocwen") and HSBC Bank USA NA ("HSBC") with prejudice. (*See* #24 at 4). Plaintiff filed a Motion to Reconsider (#25), which the Court heard on July 21, 2008 ("the hearing"), (*see* #37), and denied on August 7, 2008, (*see* #38). On August 8, 2008, the Court entered judgment, dismissing Ocwen and HSBC with prejudice. (*See* #39 at 2). The Court of Appeals has vacated the August 8 judgment and remanded for clarification based on this Court's statement at the hearing that the Motion to Reconsider was denied "without prejudice."

1 Having reviewed the written and oral record in this case, the Court now clarifies that Ocwen
2 and HSBC are dismissed with prejudice. At the hearing, Plaintiff represented to the Court that his
3 TILA claim was plausible because there had never been close of escrow on the relevant loan.
4 Counsel for the defense represented to the Court that there had in fact been a close of escrow on the
5 loan. The Court admonished Plaintiff, an attorney appearing pro se in this case, for having
6 potentially lied to the Court, but the Court gave Plaintiff fifteen days to file evidence into the record
7 supporting his claim that there had been no close of escrow. If he did so, the Court might reconsider
8 based on the new evidence. The Court therefore denied the Motion to Reconsider orally “without
9 prejudice,” conditioned on Plaintiff making such a showing within fifteen days. Defendants Ocwen
10 and HSBC submitted a proposed judgment of dismissal on July 22, 2008, which they withdrew, (*see*
11 #33, #34), and another proposed judgment of dismissal on the same date, (*see* #35), to dismiss the
12 action with prejudice as against them. Plaintiff filed an objection to the proposed order on July 28,
13 2008. (*See* #36). Plaintiff objected that dismissal was to be without prejudice. However, Plaintiff
14 failed in his objection, or in any other filing before August 5, 2008 (fifteen days from the hearing),
15 to provide the evidence that the Court had requested of him at the hearing in order to prevent
16 affirmation of the Court’s prior order dismissing these Defendants with prejudice. Therefore, on
17 August 8, 2008, the Court entered judgment in favor of Ocwen and HSBC, with prejudice.

18 CONCLUSION

19 IT IS HEREBY ORDERED that Defendants’ Motion for Reconsideration (#25) is
20 GRANTED. Ocwen and HSBC have been dismissed with prejudice.

21 Dated: This 16th day of April, 2010.

22
23 
24 United States District Judge